STATE OF MICHIGAN

COURT OF APPEALS

MICHIGAN UNIVERSAL HEALTH CARE ACTION NETWORK, WESTSIDE MOTHERS, COUNTY OF OAKLAND, WELFARE RIGHTS ORGANIZATION, GRAY PANTHERS OF METROPOLITAN DETROIT, MARCIA YAKES, CHARLOTTE JASPER, LAWRENCE BIRCHFIELD, MATTHEW HASLER, JAMES REID, SUZANNE BURLESON, LUIS SLIFKA, and ELIZABETH MALIN,

Plaintiffs-Appellants,

v

STATE OF MICHIGAN,

Defendant-Appellee.

UNPUBLISHED
November 22, 2005

No. 261400
Ingham Circuit Court
LC No. 04-000553-CZ

Before: Kelly, P.J. and Meter and Davis, JJ.

PER CURIAM.

In this declaratory action seeking a court order requiring the state to establish a statewide health care plan, plaintiffs appeal as of right the trial court's order dismissing their complaint for lack of standing pursuant to MCR 2.116(C)(5). We affirm.

I. Facts

In their complaint, plaintiffs alleged that the "greatest barrier to access to health care is lack of health insurance" because the "uninsured tend to delay visits to primary care facilities because of their inability to pay." Plaintiffs alleged that each of them engaged in this pattern of avoidance. In Count I of their complaint, plaintiffs alleged, "all residents of Michigan have the right to access to health care pursuant to Article 4, Section 51 of the State Constitution." In Count II, plaintiffs alleged that the "State has a duty pursuant to [the Michigan Health Planning and Health Policy Development Act] to establish a plan which will provide universal access to health care." Plaintiffs alleged that the State failed to fulfill this duty. Plaintiff requested that the trial court (1) order the state establish a statewide health care plan or (2) to begin a court-supervised process to establish such a plan.

Defendants filed a motion for summary disposition contending that plaintiffs lacked standing. Plaintiff then filed a motion for leave to add parties. The trial court granted defendant's motion and denied plaintiffs' motion.

II. Analysis

A. Standing

Plaintiffs first argue that the trial court erred in granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(5) on the basis that plaintiffs lacked standing to pursue their claims. We disagree. Whether a party has standing to bring an action presents a question of law reviewed de novo. *Franklin Historic District Study Comm v Village of Franklin*, 241 Mich App 184, 187; 614 NW2d 703 (2000).

Our Supreme Court has endorsed the test for standing articulated by the United States Supreme Court in *Lujan v Defenders of Wildlife*, 504 US 555, 560; 112 S Ct 2130; 119 L Ed 351 (1992). Accordingly, a plaintiff must meet the following constitutional minimum standing criteria:

> "First, the plaintiff must have suffered an 'injury in fact' - an invasion of a legally protected interest which is (a) concrete and particularized, and (b) 'actual or imminent, not "conjectural" or "hypothetical."' Second, there must be a causal connection between the injury and the conduct complained of - the injury has to be 'fairly . . . trace[able] to the challenged action of the defendant, and not . . . t[he] result [of] the independent action of some third party not before the court.' Third, it must be 'likely,' as opposed to merely 'speculative,' that the injury will be 'redressed by a favorable decision.' [*Crawford v Dep't of Civil Services*, 466 Mich 250, 258; 645 NW2d 6 (2002), quoting *Lujan, supra* at 560-561.]

The trial court ruled that plaintiffs failed to meet the second standing requirement, i.e., that there was a causal connection between the alleged conduct and plaintiffs' alleged injuries. In support of its ruling, the trial court stated:

> If the State has no duty or no legal obligation under the Constitution or under the Act to provide health care coverage, there cannot be a causal connection between people who are not getting health care coverage and whose health suffers as a result and the actions of the State, because there simply is no nexus where there is no duty or obligation on the part of this State.
>
> Article Four, Section 51 of the Constitution speaks in very broad public policy terms, nor can I find that under Section 10 under the Health Planning and Health Policy Development Act, which, again, speaks in broad terms and does not, in this Court's opinion, impose an obligation or a duty upon the State to provide health care coverage for all citizens.

We agree with the trial court. Const 1963, art 4, § 51 provides:

> The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

By this clause, the Legislature is empowered to make laws "for the protection and promotion of the public health." The provision is not self-executing; it requires legislative action.

Plaintiffs rely on MCL 325.2010 of the Michigan Health Planning and Health Policy Development Act, MCL 325.2001 *et seq.* in support of their allegations that the state is required to provide health care coverage for all citizens. MCL 325.2010(1) provides that a state health planning council "shall carry out the following activities relating to state health planning and health policy development." MCL 325.2010(1)(a) provides that one of these activities is to "prepare and approve the state health plan not less frequently than once every 3 years." Plaintiffs erroneously read these provisions to require the state health planning council to implement state-funded health care coverage for all citizens. However, the term "health plan" in the act is not synonymous with state-funded health care coverage.

Because neither the constitution nor the Michigan Health Planning and Health Policy Development Act, nor the two read in conjunction, require the state to provide state-funded health care coverage, there is no causal connection between the State's alleged failure to comply with the constitution and the act and plaintiffs' alleged injuries, which were allegedly caused by their lack of health care coverage. Because the second requirement for standing has not been met, the trial court did not err in granting summary disposition of plaintiffs' claims pursuant to MCR 2.116(C)(5).

B. Motion to Add Parties

Plaintiffs also contend that the trial court erred in denying their motion to add parties. Because the proposed additional parties would lack standing in the same manner the original plaintiffs lack standing, the trial court did not err in denying plaintiffs' motion.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Patrick M. Meter
/s/ Alton T. Davis